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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,389	01/21/2004	Kunishige Oe	Q79276	1311
65565 7590 05/27/2009 SUGHRUE-265550 2100 PENNSYLVANIA AVE. NW WASHINGTON, DC 20037-3213				
EXAMINER VARGOT, MATHEU'D				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
05/27/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/760,389

**Applicant(s)**

OE ET AL.

**Examiner**

Mathieu D. Vargot

**Art Unit**

1791

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chandross et al (see col. 2, lines 35-63; col. 4, line 28 through col. 6, line 73) in view of Japanese document 2002-356,615 and Japanese document 8-320,422 essentially for reasons of record noting the following.

Japanese -615 (see abstract) teaches polymerizing a polyimide in the presence of the instant monomeric dopant. The exposure of Chandross et al and the exposure noted in certain paragraphs of Japanese -615 does not appear to be any different, since both references are forming a polymer with a refractive index distribution apparently resulting from the dopant monomer. If applicant has a translation of Japanese -615 that shows otherwise, the submission of same would be appreciated. At this juncture, based on the record, it cannot be reasonably said that Japanese -615 differs from Chandross et al other than in the particular monomer/polymer system used to make the waveguide.

2.Applicant's arguments filed February 19, 2009 have been fully considered but they are not persuasive. Applicant provides the translation for four different paragraphs in Japanese -615, detailing the polymerization of the polyimide and formation of a core layer pattern. However, the abstract indicates that the instant dopant monomer is used in some capacity in the process. The only reasonable interpretation for this is that the dopant is used to alter the refractive index, in much the same way as it would be used in

the disclosure of Chandross et al. Although particular steps may be used in Japanese - 615 that are not necessarily taught in Chandross et al, such would not obviate the rejection. Clearly, the polyimide and dopant monomer of Japanese -615 would be used in the process of Chandross et al and that is what the instant rejection is based on. It is not clear that the "principle and process disclosed in JP -615 with respect to the pyridine derivative" are completely different from the principle and process of Chandross et al, particularly since no part of JP -615 has been translated that relates to the pyridine derivative. Chandross et al does not show the instant pyridine derivative, but it does show other dopant monomers that are structurally changed—ie, polymerized—to alter the refractive index of a part of a polymer waveguide. It would appear that such is also occurring in the process of JP -615. If applicant has a full translation of JP -615 and can show that the "principle and process" are indeed different, then such would be probative. However, such has not been shown at this point.

**3.THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot  
May 23, 2009

/Mathieu D. Vargot/  
Primary Examiner, Art Unit 1791